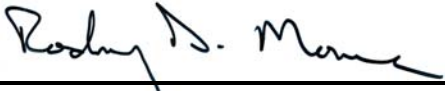


**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Chapter 7	Number 21	Effective Date 09/09/07	Review Date 2010
Subject INTERNAL INVESTIGATIONS, CITIZEN COMPLAINTS AND INTEGRITY TESTS			☐ New Order ☒ Replaces O.O. 113-3, (11/01/06)
References <i>CALEA 1.2.9d, 35.1.9a, 35.1.9b, 35.1.9c, 35.1.9d, 35.1.9e, 35.1.9f, 52.1.1, 52.1.2, 52.1.3, 52.1.5, 52.2.1a, 52.2.1b, 52.2.2, 52.2.3, 52.2.5, 52.2.6a, 52.2.6b, 52.2.6c, 52.2.6d, 52.2.6e, 52.2.8</i> VLEPSC ADM.02.05a, ADM.05.03a, ADM.18.01, ADM.18.02, ADM.18.03a, ADM.18.03c, ADM.18.04a, ADM.18.04b, ADM.18.05, PER.02.03, PER.09.05 VA Code §9.1-501, 9.1-502, 15.2-1709, 8.01-418.2, 40.1-51.4:4, 18.2-460, and 18.2-57 General Order 1-5			
 _____ Chief of Police or Designee 09/09/07 _____ Date			

I. PURPOSE

The purpose of this order is to inform all employees of the procedures for addressing complaints of misconduct and other administrative matters of concern to the Department and to explain the procedures for Integrity Tests.

II. POLICY

It is the policy of the Richmond Police Department to impartially investigate all complaints of alleged employee misconduct, to equitably determine whether the allegations are valid or invalid and to take appropriate action. It is also understood that political pressures from any source are possible. The Richmond Police Department's internal investigations will be conducted in a fair and impartial manner to ensure the quality and/or integrity of the investigation is not compromised. All internal affairs investigations shall be confidential and kept in a controlled, secured area. Incidents covered by this directive include alleged or suspected violations of law and/or Department policies and procedures, ***and/or City Regulations.***

The Department places the utmost emphasis on integrity and ethics and as such, conducts proactive integrity testing.

III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy

are investigated and appropriate training, counseling and/or disciplinary action is initiated.

IV. PROCEDURES, ROLES AND ACCOUNTABILITY

A. General Responsibilities:

1. Responsibilities of All Officers and Employees in general:

- a) All employees, when made aware that an individual wants to make a complaint about a police employee, will immediately notify a supervisor.
- b) All employees will cooperate fully with personnel of the Internal Affairs Division (IAD) or any other member of the Department conducting internal investigations.
- c) Employees do not have a “right to remain silent” in an administrative investigation and are required to fully and truthfully answer all questions relating to the performance of their official duties or their fitness for office, provided they are advised that information contained in their answers cannot be used against them in a subsequent criminal proceeding (refusal to cooperate in an internal administrative investigation is grounds for disciplinary action, up to and including termination).

2. Responsibilities of Supervisors in general:

- a) All police supervisors will accept any complaint of misconduct against any Richmond Police officer/employee, regardless of the circumstances under which the complaint is made or whether it is made anonymously or how the information is relayed. Supervisors are not to direct citizens to another location to file a complaint.
- b) The supervisor shall ensure that the on-call IAD investigator is notified for any serious allegation. The supervisor may also contact the on-call IAD investigator for any advice and assistance needed.
- c) The supervisor receiving the information must first determine, if in fact, the citizen is making an allegation of misconduct on the part of a police employee. There are instances in which citizens wish to “complain” about actions which are not improper, or in which their complaint deals with Department policy rather than the actions of an individual officer. In these cases, preparing an ***Initiation of Employee Investigation form (PD-2)*** naming an individual officer only confuses the issue, and is a disservice to the citizen, the officer and the Department. The obligation of the supervisor in this case is to explain the appropriate policies and procedures to the complainant, and why the information is not a valid complaint. If the complainant insists that he/she wants to make a formal complaint, the supervisor must inform the citizen that there is no basis for the complaint, but

that the citizen may fill out and sign a Complainant/Officer Statement (PD-118) and forward it to the Internal Affairs Division for further review. The supervisor will facilitate providing the PD-118 to the citizen by referring the citizen to the RPD website or by offering to mail or deliver the PD-118 to the citizen.

- d) When the supervisor determines that a complaint is a specific allegation of misconduct and should be investigated, the supervisor shall attempt to resolve the complaint immediately. The supervisor will give the complainant(s) an opportunity to complete the PD-118 and will have any involved employees fill out PD-118s relating to the incident or allegation, and attempt to complete the investigation at that time.
- e) Serious, credible complaints against police employees require thorough investigations. However, there are also spurious complaints against police officers which are made for the purpose of harassing the officer or attempting to gain some advantage in a court case or to intimidate officers from performing their duties. The need to use RPD resources to investigate serious and credible complaints of wrongdoing also imposes an obligation to not waste time and resources on spurious complaints. In conducting the initial investigation, the supervisor will be aware of the following indicators of spurious complaints:
 - The complainant's story keeps changing;
 - The complainant states or implies that complaint will go away if his charges go away;
 - The complainant's allegations do not match the available physical evidence or independent witness statements; and,
 - The complainant is known to have a history of making an excessive number of complaints against police officers.

Remember that the presence of any of these factors does not necessarily mean that a complaint is invalid. The supervisor will look at the totality of the circumstances and make a decision based upon all factors. The standard of proof in internal investigations is the preponderance of the evidence, whatever is most likely to be the fact.

- f) Following the initial investigation, the supervisor will fill out a **PD-2**, including all investigatory information and PD-118s, and will recommend a disposition for the complaint. The supervisor shall ***fax and/or hand-deliver a copy to IAD, if during normal business hours, as well as forwarding the PD-2***, all PD-118s and supporting information through channels to IAD. The relevant complaint tracking number shall be affixed to each document, if available.

- g) Any supervisor observing or learning of alleged misconduct or receiving a citizen complaint, shall notify the Internal Affairs Division before his/her end of tour.
- h) Between the hours of 0800-1600, Monday thru Friday, an Internal Affairs Detective is available to accept complaints by call 804-646-6816. Holidays and all other hours, complaints can be reported by calling the on-call Internal Affairs Division Supervisor. The IAD supervisor shall log the complaint, issue a tracking number and direct the official to either fax or hand-carry a copy of all relevant documents, i.e. **PD-2's**, preliminary report, etc., associated with the complaint to the Major-In-Charge of the individual assigned area **and Internal Affairs**.

3. Responsibilities of the Internal Affairs Division in general:

- a) IAD shall coordinate and exercise staff supervision on behalf of the Chief of Police over the investigation of complaints or allegations of police misconduct against members of the Department.
- b) IAD will conduct criminal investigations of incidents or complaints of excessive force, or of assaults committed by police officers during the course of their official duties. The criminal investigation will be conducted in accordance with standard procedures for IAD criminal investigations. (**General Order 1-5, Use of Force**)
- c) IAD will conduct administrative investigations of excessive force complaints or incidents at the conclusion of the criminal investigation. (**General Order 1-5, Use of Force**)
- d) IAD will refer complaints of rudeness, harassment, improper or unlawful arrest, failure to take necessary action and minor code of conduct violations to the affected Service to be investigated, unless the following or other factors indicate that IAD should conduct the investigation: the seriousness of the alleged violations, a previous history of similar complaints against the accused employee and/or the ability of the affected Service to conduct the investigation.
- e) IAD will notify the Chief of Police immediately of matters involving the integrity of the Department or when Police personnel are accused or suspected of violations of the law.
- f) IAD may conduct an investigation at the request of any member or employee of the Department who feels threatened, in any substantive manner. Such persons are authorized to report their situation directly to the OIC of the Internal Affairs Division without reporting to his/her supervisor.
- g) IAD will conduct fact-finding investigations as directed by the Chief of Police.

- h) IAD will review all Use of Force Reports (PD-35) and any O.C. Spray/Medical Services Rendered Form (PD-35A), if applicable, for completeness and compliance with policy.
- i) IAD will conduct prompt and diligent discrimination investigations that cannot be appropriately addressed at the immediate supervisor level.
- j) IAD will complete investigations within ***seventy-five (75)*** working days unless an extension is granted by the Chief of Police.
- k) IAD will conduct Integrity Tests as directed by the Chief of Police.
- l) IAD will compile annual statistical summaries, based upon records of internal affairs investigations, which will be made available to the public and to Department employees.
- m) Annually, IAD will complete a documented administrative review of the Department's practices concerning bias-based profiling. This review will include:
 - (1) An analysis of citizen complaints, comments and/or concerns received regarding bias-based profiling;
 - (2) An overview of the training conducted; and
 - (3) Recommendations, if any, for changes in policies, procedures, practices or training.
- n) IAD will perform other duties as directed by the Chief of Police.

B. Specific Procedures with Responsibilities:

- 1. Investigation and Interviewing of Employees – Responsibilities of the Investigator:
 - a) Notify the affected employee(s) of the investigation as soon it can be reasonably accomplished without compromising the investigation, by completing the notification form, (PD-2A).
 - b) Complete the Complainant's Acknowledgement letter providing the name and phone number of the investigating supervisor and mail it to the complainant. Retain a copy of the letter with the complaint package.
 - c) Designate a reasonable time and place to conduct the investigative interview. When practical, it shall be done when the employee under investigation is working his/her normal shift.

- d) Ensure that interviewing sessions are for reasonable periods that allow for personal necessities and rest periods.
- e) Inform the employee of his/her name and rank, the identities of any other individuals present during the interview, and the nature of the investigation.
- f) Use Administrative Proceeding Rights Form, (PD-22) to notify the employee of the administrative nature of the interview.
- g) If the employee asks about legal counsel, advise that employees do not have the right to be represented by legal counsel during interviews designed to gather information for administrative purposes only, but that the employee's attorney may be present to observe only, and that any interference by the attorney will be the responsibility of the employee and will not be allowed.
- h) Do not require or request the employee to disclose any item of his/her property, income assets, source(s) of income, debts or personal or domestic expenditures, including those of any member of his/her family or household, unless such information is necessary in investigating a possible conflict of interest, with respect to the performance of his/her official duties, or unless such disclosure is required by law, or unless such information is specifically, directly, and narrowly related to the performance of duty and/or fitness for duty.
- i) Require the employee to submit to a medical or laboratory examination, participate in a line-up or be photographed when such activity is specifically, directly, and narrowly related to the performance of duty and/or fitness for duty.
- j) Prepare an investigative report using the format established by the Chief of Police.
- k) For complaints assigned to Services, the investigating supervisor shall forward the completed report to the affected Major/Executive Director within thirty (30) calendar days of the receipt of the complaint. If the investigation cannot be completed within thirty days, the assigned investigating supervisor shall send a written Request for Extension (**PD-2G**), including the justification for such request, to the Major/Executive Director of the affected Service. If the Major/Executive Director approves, a copy will be sent to the Internal Affairs Division.

2. Adjudication of Investigations – Responsibilities:

- a) The Chief of Police or designee will adjudicate all investigations, with a final disposition for each allegation classified as one of the following:
 - Substantiated - The allegation is true.
 - Unfounded - The allegation is false.
 - Exonerated - The incident occurred, but the employee acted lawfully and properly.
 - Not Substantiated - Evidence is not sufficient to prove or disprove the allegation.
 - Secondary Violation Substantiated - Substantiated violation not alleged in the complaint, but disclosed during the investigative process.
- b) The Internal Affairs Division will send a letter to each employee who has been investigated, advising the disposition of the investigation, within seven (7) days of receipt of the final disposition from the Chief of Police or designee.
- c) The employee's supervisor will deliver the notification letter to the employee and have the employee sign a duplicate copy. The supervisor will return the copy to IAD for filing.
- d) Major/Executive Director: If allegations are substantiated, and/or secondary violation substantiated, the affected Major/Executive Director will notify the employee(s) involved.
- e) IAD will notify the complainant of the disposition of all unfounded, exonerated, and not substantiated complaints.
- f) The **DRO** will notify the complainant of the disposition of all substantiated complaints.

3. Maintenance of Records – Responsibilities:

- a) The Internal Affairs Division shall maintain reports and records of all internal investigations involving police employees. A consecutively numbered "Internal Affairs Register" shall be kept as the official record of internal investigations and a "Control Card" shall be kept for each employee with internal investigations listed individually. These files may be kept electronically. The Internal Affairs Register will include:
 - Investigation number
 - Date received
 - Name of complainant or requesting authority
 - Name of employee(s)
 - Nature of investigation
 - Name of assigned investigator or Service

- Date investigation was completed
- Date returned to IAD for filing
- Disposition

The Control Card will include:

- Date received
- Investigation number
- Name of complainant or requesting authority
- Nature of investigation
- Disposition

- b) Information from IAD files may be shared with investigators from other law enforcement agencies to assist in background investigations for employment of current and former RPD employees, as Virginia law allows the Chief of Police to disclose information about a former law-enforcement officer's job performance to a prospective law-enforcement employer (the Chief of Police is presumed to be acting in good faith and, unless a lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences). Investigators will be required to provide IAD with a copy of a signed release from the employee authorizing the release of such information.

4. Polygraph Policy:

- a) The VA Code, Section §40.1-51.4:4, states in part: "... the chief executive officer of a law-enforcement agency...may, by written directive, require an employee to submit to a lie detector test related to a particular internal administrative investigation concerning allegations of misconduct or criminal activity. No employee required to submit to a lie detector test shall be discharged, demoted or otherwise discriminated against solely on the basis of the results of the lie detector test....The analysis of any polygraph test charts produced during any polygraph examination administered to a party or witness shall not be admissible in any proceeding...conducted by any county, city or town over the objection of any party except as to disciplinary or other actions taken against the polygrapher."
- b) The severity of the allegation and the lack of other possible sources of evidence are the determining factors as to when an employee may be ordered to submit to a polygraph test. In situations where no evidence exists other than the complainant's allegations, the complainant may be asked to submit to a polygraph test. If the complainant passes the test, then the accused employee may also be ordered to submit to a polygraph test.
- c) If the Chief of Police determines that it is reasonably necessary to utilize a polygraph examination, as an investigative tool to test the

dependability of prior answers given by a suspected employee to questions specifically, directly and narrowly related to his/her official duties, a written order requiring the employee to submit to a polygraph examination may be made under pain of dismissal for refusal to do so.

5. Criminal Investigations of Police Employees:

- a) If an allegation or preliminary investigation reveals the possibility of criminal wrongdoing by a Department employee, the Internal Affairs Division shall be notified. IAD will determine whether the allegation will be investigated by an IAD detective, a detective from another unit of the Department or both.
- b) A clear distinction will be maintained between the criminal portion of an investigation and the administrative investigation of the incident. Officers who are suspects in a criminal investigation will be clearly so advised, and given Miranda warnings prior to any questioning by the assigned IAD detective. Any administrative information-gathering related to the incident under investigation, such as the preparation of the Use of Force Report (PD-35), Firearms Discharge/Assault Report (PD-10) or similar information will be done by the suspect officer's supervisor and chain-of-command. Under such circumstances, any PD-35s or other administrative documents related to the case which are forwarded to IAD for recordkeeping, will not be used as part of the criminal investigation, unless the suspect officer waives his/her Miranda rights.
- c) The IAD detective will not immediately compile an IBR. The **PD-2**, will be sufficient to initiate the criminal investigation and an IBR will not be completed until and unless it becomes necessary as part of the investigation. The basic information on an IBR is available to the public and IBR information is available to police officers through the PISTOL system, which could compromise the investigation.
- d) The administrative investigation will begin when the criminal investigation is completed, or as directed by the Chief of Police or designee.

6. Job Performance Early Intervention Tracking System (JPEITS):

- a) The Job Performance Early Intervention Tracking System is an automated system to help an employee's supervisor identify any problems that may be developing with the employee, so that the supervisor may take appropriate action to provide assistance to the employee before the problems become severe. There is no stigma attached to an Early Intervention Notice.

- b) The system will generate an Early Intervention Notice whenever an employee is the subject or primary officer in any three (3) noteworthy incidents in a six (6) month period. For the purposes of the Early Intervention Notice, a noteworthy incident is defined as any one of the following:
- IAD or complaint investigation
 - Use of force
 - Police vehicle accident
 - Vehicular pursuit
 - Injury to officer
 - Imposition of disciplinary action
- c) Roles and Responsibility of Supervisors under JPETIS:
- (1) ***All police supervisors*** will review the information forwarded with the Early Intervention Notice.
 - (2) ***All police supervisors*** will review the employee's overall job performance, using the Job Performance Early Intervention Tracking System (JPEITS) Notice Response (IAD Form 17) to assist with identifying both positive and negative job performance criteria.
 - (3) ***All police supervisors*** will discuss job performance issues with the involved employee, as appropriate.
 - (4) ***All police supervisors*** will identify and initiate actions to assist the employee, including mentoring, counseling, referral to the Richmond Employees' Assistance Program, or the initiation of disciplinary action.
 - (5) ***All police supervisors*** will utilize the IAD Form 17 to document all actions taken, and forward the IAD Form 17 through the chain-of-command to IAD.
 - (6) ***The employee's chain-of-command*** will review all IAD Form 17s to ensure that adequate review of the employee was conducted.
 - (7) ***The employee's chain-of-command*** will direct additional remedial action be taken toward the employee when appropriate.
 - (8) ***The employee's chain-of-command*** will forward the IAD Form 17 to IAD for filing.

d) Roles and Responsibilities of IAD under JPTEIS:

- (1) IAD will ensure that all noteworthy incidents and relevant information is entered in to the IAD PISTOL database.
- (2) IAD will respond to an automated Early Intervention PISTOL Alert by preparing and forwarding the alert information to the affected employee's supervisor, along with instructions for how to respond.
- (3) IAD will receive and file all supervisory responses to Early Intervention Notices.
- (4) IAD will periodically, but at least annually, evaluate the system to determine if notice threshold levels are appropriate and if supervisory responses are adequate.

7. Integrity Testing:

An Integrity Test is a procedure to determine possible misconduct on the part of an employee.

a) Roles and Responsibilities of Internal Affairs Division Regarding Integrity Testing:

- (1) Will have operational control and oversight over every Integrity Test that is conducted;
- (2) Will prepare an Operational Plan prior to the test; and,
- (3) Will maintain all Integrity Test files as confidential IAD files, in accordance with Department policy, legal requirements and General Schedule 17 of the State Records Retention and Disposition Schedule.

b) Chief of Police or designee -- will approve all Integrity Test Operations Plans prior to implementation.

c) Commonwealth's Attorney's Office -- all Integrity Test operations involving possible criminal misconduct must have prior approval from the Commonwealth's Attorney's Office.

V. FORMS

A. *Initiation of Employee Investigation (PD-2)*

B. *Notification to Employee of Investigation (PD-2A)*

C. *Request for Extension (PD-2G)*

- D. Firearms Discharge/Assault Report (PD-10)
- E. JPEITS Notice Response (IAD Form 17)
- F. Administrative Proceeding Rights (PD-22)
- G. Use of Force Report (PD-35)
- H. O.C. Spray/Medical Services Rendered Form (PD-35A)
- I. Complainant/Officer Statement (PD-118)